

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

S.L., by and through his parents and  
guardians, J.L. and L.L.,

Plaintiff,

v.

PREMERA BLUE CROSS, AMAZON  
CORPORATE LLC GROUP HEALTH  
AND WELFARE PLAN, and AMAZON  
CORPORATE LLC,

Defendants.

Case No. 2:18-cv-01308-RSL

PLAINTIFF'S REPLY IN SUPPORT OF  
PLAINTIFF'S MOTION TO (1) EXTEND  
DEADLINE FOR FILING OF PLAINTIFF'S  
OPPOSITION TO DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT  
(DKT. #59); (2) EXTEND DEADLINE FOR  
FILING OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT; AND (3) STRIKE  
TRIAL DATE AND RELATED  
DEADLINES (DKT. #58) PENDING THE  
COURT'S RULING ON PLAINTIFF'S  
PENDING MOTION TO COMPEL (DKT.  
#50)

**Noted for Consideration: August 19, 2022**

**I. ARGUMENT**

Plaintiff's dispositive motion and plaintiff's opposition to defendants' motion for summary judgment cannot reasonably be briefed or decided until after the Court rules on plaintiff's pending Motion to Compel Premera's Rule 30(b)(6) deposition (Dkt. #50). The outcome of the motion to compel will impact the contents of the record for judicial

1 review in this ERISA-governed benefit case. *See* Dkt. # 50, pp. 1-2. If the motion is  
 2 granted and Premera is deposed, the Court may exercise its discretion to consider the  
 3 deposition testimony in its judicial review of Premera's coverage denial decision. *See*  
 4 Dkt. # 62, p. 3 (citing *Stephan v. Unum Life Ins. Co. of Am.*, 697 F.3d 917, 970 (9th Cir.  
 5 2012))("the court may consider evidence beyond that contained in the administrative  
 6 record . . . to determine whether a conflict of interests exists that would affect the  
 7 appropriate level of scrutiny").

8  
 9 All parties have been aware since July 13, 2022 that "[t]he law clerk has  
 10 completed her recommendation..." on the motion to compel and that a decision is  
 11 forthcoming. *See* Declaration of Megan E. Glor, Ex. A. All parties reasonably knew that  
 12 it would be premature to file dispositive motions until the decision is issued.

13 Defendants' opposition appears to be little more than a restatement of their  
 14 opposition to plaintiff's motion to compel. They once again erroneously argue that  
 15 plaintiff's "deposition request is outside of the scope of the federal rules and discovery  
 16 permitted under that statute." Dkt. # 63, p. 1; *See* Dkt. # 52, pp. 6-7.

17 However, the Court previously concluded in granting plaintiffs' motion to  
 18 compel document discovery (Dkt. # 28) that the evidence plaintiff seeks through his  
 19 pending motion to compel is discoverable:  
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 22 Despite defendants' assertions to the contrary, "[p]laintiff is not seeking to  
 23 take discovery on the off chance that [he] will uncover a conflict of  
 24 interest: [he] already has evidence of irregularities in the claims handling  
 25 procedure that resulted in the [denial] of benefits." Vancleave v. Boeing  
 26 Co. Non-Union Long Term Disability Plan, No. C09-1512RSL, 2010 WL 23  
 8946093, at \*2 (W.D. Wash. June 15, 2010)...The discovery plaintiff seeks is  
 relevant and narrowly tailored to these issues, on which the Court will  
 likely hear evidence.<sup>2</sup> See Vancleave, 2010 WL 8946093, at \*2. Accordingly,

1 plaintiff's motion to compel production of documents responsive to his  
2 Second Requests for Production is GRANTED.

3 Dkt. #47, p. 4. Plaintiff filed the pending motion to compel Premera's *Rule 30(b)(6)*  
4 *deposition* after reviewing Premera's Court-ordered *document* production and finding  
5 that the documents "did not provide the complete information that plaintiff sought."  
6 Dkt. # 62, p. 3 (*quoting* Dkt. #50, pp. 2, 4-5).

7 Defendants filed their dispositive motion knowing it was premature to do so  
8 because the Court has not ruled on plaintiff's motion to compel. *Both* parties reasonably  
9 knew that the case schedule would have to be extended and should have attended to  
10 requesting extension before the day of the dispositive motion deadline. Rather than take  
11 shared responsibility for that oversight, defendants take the unreasonable position that  
12 the deadlines should not be extended.<sup>1</sup> Their position is illogical and unreasonable, and  
13 therefore, their motion should be denied.  
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25 <sup>1</sup> The Court previously extended the deadlines in this case pending its rulings on  
26 plaintiff's discovery motions, including the present motion. *See* Dkt. #62, p. 3 (citing Dkt  
#44, #58).

**II. CONCLUSION**

For the foregoing reasons, plaintiff respectfully requests that the Court grant his motion to extend and strike case deadlines.

Dated: August 18, 2022

s/ Eleanor Hamburger

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